

REMARKS

Claims 1-23, including new claims 19- 23 appear in this application for the Examiner's review and consideration. A marked-up version of the amended claims is attached in Appendix A and a clean version of the pending claims, including new claims 19-22, is attached in Appendix B. No new matter has been entered.

Applicants appreciate the indication by the Examiner that claims 12-17 contain allowable subject matter and would be allowable if rewritten in independent form. In this regard, new claim 23 represents claim 12 rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Thus, Applicants submit that new claim 23 is in condition for allowance.

Claim Rejections- 35 U.S.C § 102

Claims 1, 2, 9 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,709,686 to Talos *et al.* ("Talos") for the reasons stated on page 2 of the Office Action.

Amended claim 1 recites a bone plating system comprising, *inter alia*, at least one non-threaded second hole and a second screw having a non-threaded head. The features of the two different types of holes: at least one threaded and at least one non-threaded, is not taught, disclosed, or suggested by Talos. Also, Talos does not teach, disclose, or suggest the two different types of holes cooperating with two different types of screws, respectively. For at least these reasons, Applicants submit that claim 1 is patentable over Talos.

With respect to claims 2, 9, and 10, which depend from claim 1, Applicants submit that, because these claims define more particular aspects of Applicants' invention (as well as including the features of claim 1), they are also patentably distinguished over Talos for the above reasons, as well as the totality of the claimed invention.

Claim 18 was rejected under 35 U.S.C. § 102(b) as being anticipated by Traumatology Orthop (the "Orthop reference") for the reasons stated on pages 2 and 3 of the Office Action. Applicants respectfully traverse this rejection and request reconsideration.

Claim 18 recites a method of fracture fixation of bone comprising, *inter alia*, compressing a bone plate against the bone with at least one first fastener to hold the fracture reduction and securing at least one second fastener at a fixed angular relationship to the bone plate, wherein the at least one first fastener is inserted before the at least one second fastener. It is not apparent to the undersigned attorney for Applicants that the Orthop reference discloses, teaches, or suggests such a sequential insertion of first and second fasteners, *i.e.* wherein the at least one first fastener is inserted before the at least one second fastener.

Applicants respectfully request that the Examiner direct Applicants to the section(s) or paragraph(s) of the Orthop reference which the Examiner contends to disclose such a sequential insertion of fasteners.

Claim Rejections- 35 U.S.C. § 103

Claims 3-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Talos in view of U.S. Patent No. 5,129,901 to Decoste ("Decoste") and claims 7, 8, and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Talos for the reasons stated on pages 4-5 of the Office Action. Applicants disagree.

As explained above, Talos does not teach, disclose or suggest a bone plate comprising both threaded and non-threaded holes, as recited in claim 1. Decoste does not remedy this deficiency of the Talos reference, as it also does not teach, disclose or suggest a bone plate comprising both threaded and non-threaded holes. Thus, Applicants submit that claim 1, and claims 3-8, and 11 dependent therefrom, are allowable over Talos and Decoste, either alone or in combination.

New Claims

Claims 19-23 are newly presented for the Examiner's review and consideration. New claim 19 is directed to a method for fracture fixation of bone wherein the fracture is a peri-articular fracture, and new claim 20 is directed to a method for fracture fixation of bone wherein the fracture is adjacent at least one of a distal tibia, a proximal tibia, a distal femur, or proximal femur, respectively. Support for these claims can be found at least at page 7, lines 4-9, and Figure 9 and 22 of the specification as originally filed.

New claim 21 recites a feature securing at least one third fastener at a fixed angular relationship to the bone plate, wherein third fastener is fixed at a different angular relationship to the bone plate than the second fastener. Support for this claim can be found at least in Figures 9 and 22 of the specification as originally filed.

New independent claim 22 is similar to unamended claim 1 including the feature wherein at least one of the second hole and the second screw head is non-threaded, such that second screw head does not threadedly engage the second hole. Support for this claim can be found at least at page 5, line 21- page 6, line 2, of the specification as originally filed. As explained above, new claim 23 represents claim 12 rewritten in independent form. These new claims are also submitted to be patentable over the cited references.

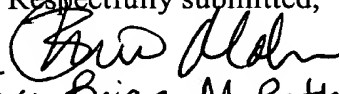
Conclusion

In view of the foregoing amendments and remarks, it is believed that all rejections and objections have been overcome or traversed and should be withdrawn. Thus, this application is submitted to be in condition for allowance, early notice of which would be appreciated. If the Examiner does not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and accelerate the eventual allowance of the claims.

No fee is believed to be due for this submission. Should any fees be required, however, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

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Enclosures

Appendix A
Marked-Up Version of the Amended Claims

1. (Amended) A bone plating system for fixation of bone comprising:
a bone plate having:
an upper surface;
a bone-contacting surface;
at least one first hole passing through the upper and bone-contacting surfaces
and having a thread; and
at least one non-threaded second hole passing through the upper and bone-
contacting surfaces;
a first screw having a shaft with a thread for engaging bone and a head with a thread
configured and dimensioned to mate with the thread of the first hole; and
a second screw having a shaft with a thread for engaging bone and a non-threaded
head, wherein the first and second screws remain seated in their respective holes for
substantially as long as the bone plate is implanted.